UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Ruediger Eirmann et al.
Application Number:	10/583,638
Filing Date:	03/26/2007
Group Art Unit:	1712
Examiner:	Nicole R. Blan
Title:	DISHWASHER WITH DEVICE FOR STORAGE OF RINSING WATER

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P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Pursuant to 37 CFR 1.192, Appellants hereby file an appeal brief in the above-identified application. This Appeal Brief is accompanied by the requisite fee set forth in 37 CFR 1.17(f).

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(1) REAL PARTY IN INTEREST

The real party in interest is BSH Bosch und Siemens Hausgeräte GmbH.

(2) RELATED APPEALS AND INTERFERENCES

There are no appeals or interferences that will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) STATUS OF CLAIMS

Claims 22-42 are the basis of the appeal of the pending claims. Claims 1-21 were canceled in the June 20, 2006 Preliminary Amendment. Claims 22, 37, 38, and 42 are independent.

(4) STATUS OF AMENDMENTS

The pending claims identified in the Claims Appendix correspond to the claims entered following the submission of the Amendment on August 19, 2010.

(5) SUMMARY OF CLAIMED SUBJECT MATTER

The present invention as discloses a dishwasher and a method for operating a dishwasher wherein the storage reservoir for the rinsing water is particularly simple and

economical to produce and, in addition, the loss of space in the dishwasher through the storage reservoir is kept very low and/or the rinsing solution can be stored for a particularly long time in the storage reservoir without substantial formation of bacteria.

To accomplish this, the present invention as embodied in independent claim 22 includes a dishwasher 9 which is suitable for carrying out a washing program comprising at least one washing process using rinsing water, comprising a program controller (not shown, discussed at page 10, line 7) , a washing container 11 for receiving items to be cleaned and a system for circulating the rinsing water and a storage reservoir for the rinsing water for storage and re-use at a later time of at least a part of the rinsing water present in the dishwasher characterised in that the storage reservoir is embodied as a film bag 17 matched in size to the volume of the liquid (see page 7, lines 19-27 and Figure 1).

Independent claim 37 includes a dishwasher which is suitable for carrying out a washing program comprising at least one washing process using rinsing water, comprising a program controller (not shown, discussed at page 10, line 7), a washing container 11 for receiving items to be cleaned and a system for circulating the rinsing water and a storage reservoir including a film bag 17 for the rinsing water for storage and re-use at a later time of at least a part of the rinsing water present in the dishwasher, wherein the dishwasher has a lye pump (page 8, line 17) for pumping away the rinsing water from the dishwasher and a circulating pump (page 8, line 17) for acting upon the spray arms, characterised in that the storage reservoir can be filled with filtered rinsing water from the circulating pump.

Independent claim 38 includes a method for operating a dishwasher, especially comprising a device for storing rinsing water, wherein rinsing water present in the dishwasher at the end of or during a washing process is removed at least partly from the rinsing water circuit of the dishwasher and introduced into a flexible film bag, which is matched in its size to the liquid volume and before or at the beginning of a following rinsing process is removed at least partly from the flexible film bag and fed back to the rinsing water cycle of the dishwasher (Page 7, line 29 – page 8, line 8).

Independent claim 42 includes a method for operating a dishwasher, comprising a device for storing rinsing water wherein the rinsing water present in the dishwasher at an end of or during a washing process is at least partly removed from a rinsing water cycle of the dishwasher and introduced into a storage reservoir including a film bag and before or at a beginning of a following rinsing process, is removed from the storage reservoir at least in part and is fed back to the rinsing water cycle of the dishwasher, characterised in that the storage reservoir is filled with filtered rinsing water from a circulating pump (page 10, lines 16-19).

(6) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

(a) Whether claims 22, 24, 25, 27, 28, 32, 33, 35, 38-40, and 42 are unpatentable under 35 U.S.C. § 103(a) as over Centis (U.S. Patent No. 5,617, 885) in view of Tabasso (EP 0 546 348).

(b) Whether claim 23 is unpatentable under U.S.C. § 103(a) over Centis in view of Tabasso and further in view of Andreae (DE 19 835 722).

(c) Whether Claim 26 is unpatentable under 35 U.S.C. § 103(a) over Centis in view of Tabasso, and further in view of Perry's Chemical Engineering Handbook.

(d) Whether claims 29 and 37 are unpatentable under 35 U.S.C. § 103(a) over Centis in view of Tabasso, and further in view of Arreghini et al. (U.S. Patent No. 5,606,878).

(e) Whether claim 30 is unpatentable under 35 U.S.C. § 103(a) over Centis in view of Tabasso in view of Arreghini et al. in view of Perry's Chemical Engineering Handbook, and further in view of Thies (U.S. Patent No. 6,432,216).

(f) Whether claim 34 is unpatentable under 35 U.S.C. § 103(a) over Centis in view of Tabasso, and further in view of Fumagalli (EP 0 607 628).

(g) Whether claim 36 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Centis in view of Tabasso, in view of Johnston (U.S. Patent No. 4,518,599), and further in view of Nishino et al. (U.S. Patent No.3,872,013).

(h) Whether claim 41 is unpatentable under 35 U.S.C. § 103(a) over Centis in view of Tabasso, in view of Arreghini et al., in view of Johnston, and further in view of Nishino et al.

(7) ARGUMENT

Claims 22, 24, 25, 27, 28, 32, 33, 35, 38-40, and 42 are NOT unpatentable under 35 U.S.C. § 103(a) as over Centis (U.S. Patent No. 5,617, 885) in view of Tabasso (EP 0 546 348).

The present invention recites in independent claim 22 a feature where a "storage reservoir is embodied as a film bag which can be matched in size to the volume of the liquid." The film bag feature is also recited in independent claims 37, 38, and 42. As noted in the description of the present invention, the film bag can be matched in size to the volume of the liquid, freeing space in the dishwasher. The film bag is also inexpensive and simple to manufacture.

Centis is cited in the grounds of rejection as disclosing a dishwasher that carries out a washing program and includes a program controller, a washing container, and a system for circulating the rinsing water. The grounds of rejection and Advisory Action acknowledge that the claimed film bag feature of the present invention is not disclosed in Centis. Rather, the grounds of rejection state that Tobasso teaches a similar dishwasher as in Centis for recovering, storing, and returning rinse water for further use during various phases of a washing process by using a flexible bag as a storage reservoir which results in minimum space usage (citing Figures 1 and 2, the Abstract, and col. 1, lines 47-55; col. 2, lines 29-39; and col. 3, lines 28-31 of Tobasso). Accordingly, the grounds of rejection allege that it would have

been obvious to one of ordinary skill in the art at the time the invention was made to use the flexible bag reservoir taught by Tobasso as the reservoir of Centis with a reasonable expectation of success because Tobasso allegedly teaches that it is known to use a flexible bag for recovering, storing, and returning rinse water for further use during various phases of a washing process because the flexible bags take up minimum space within the dishwasher.

Appellants respectfully submit that Centis teaches away from the present invention and that one of ordinary skill in the art would have not looked to Tobasso for a flexible reservoir for use in the Centis dishwasher. In response to this argument, the grounds of rejection in the Final Office Action note that Centis teaches a dishwasher that utilizes a storage reservoir, but it does not teach that the storage reservoir is a flexible bag. The grounds of rejection and Advisory Action state that Tabasso teaches a dishwasher that utilizes a flexible bag as a storage reservoir because using bag-like reservoirs takes up minimum space within the dishwasher. Therefore, the grounds of rejection conclude that because both Centis and Tabasso teach dishwashers that contain a storage reservoir, it would have been obvious to one of ordinary skill in the art to substitute one container for the other to achieve the predictable result of holding liquid.

Appellants respectfully submit the Tobasso bags are for use in a parallel manner and not for use as part of the water supply system. Centis describes a washing machine shown in EPO 0 287 990 and Germany 29 10 140 in which a rinse phase is collected in an appropriate reservoir. The reservoir is connected in parallel with the washing machine for reuse of the water in a pre-wash or main wash phase of a subsequent washing process (see col. 1, lines 10-

16). Centis states that one problem with this rinse collection system configured in parallel with the water supply system of the machine is that the rinse and/or wash water stored in the reservoir is at least partially contaminated, i.e., polluted. Centis seeks to solve this problem by having its reservoir 11 as a part of the water supply circuit 8-14 (in which the reservoir 11 is connected in series). In this manner, the reservoir 11 is automatically flushed, and washed, with fresh water from the supply. This enables the water from at least one operational phase of the washing process to be recovered in an effective way, while overcoming the hygienic and reliability problems associated with prior-art solutions (see col. 3, lines 10-19). As such, since the Tobasso bags are for use in a parallel manner and not for use as part of the water supply system, Appellants again respectfully submit that one of ordinary skill in the art would not look at that configuration for incorporation into Centis system. Appellants note that the alleged use in a washing process as further argued in the Advisory Action does not teach use in a water supply. Accordingly, Appellants respectfully submit that the present combination of references was made using improper hindsight in view of Appellants' own specification.

Additionally, in the Centis system, the reservoir 11 is arranged to act as a volumetric metering reservoir. This volumetric metering teaching would lead one of ordinary skill in the art away from bags of a flexible nature. Indeed, the Centis dishwasher notes that the reservoir 11 is preferably provided with level control means, which may for instance comprise a float 16 adapted to enable the water inlet valve 9 to be opened only when the level of the water in the reservoir 11 is below a predetermined level (see col. 2, lines 20-24). One of ordinary skill in the art would not associate using a flexible bag in conjunction with a float 16 to determine a

level of fluid since the bags shape would constantly change. Accordingly, Appellants respectfully submit that the claims are allowable.

With respect to arguments (b) - (h), these claims are allowable at least based on their dependency on the independent claims, as well as their own features.

(8) CONCLUSION

In view of the foregoing discussion, Appellants respectfully request reversal of the Examiner's rejections.

Respectfully submitted,

/Andre Pallapies/

Andre Pallapies
Registration No. 62,246
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BSH Home Appliances Corporation
100 Bosch Blvd.
New Bern, NC 28562
Phone: 252-672-7927
Fax: 714-845-2807
andre.pallapies@bshg.com

CLAIMS APPENDIX

1 - 21 (Canceled).

22. (Rejected) A dishwasher which is suitable for carrying out a washing program comprising at least one washing process using rinsing water, comprising a program controller, a washing container for receiving items to be cleaned and a system for circulating the rinsing water and a storage reservoir for the rinsing water for storage and re-use at a later time of at least a part of the rinsing water present in the dishwasher characterised in that the storage reservoir is embodied as a film bag matched in size to the volume of the liquid.

23. (Rejected) The dishwasher according to claim 22, wherein the film bag is formed of at least one of plastic and metal.

24. (Rejected) The dishwasher according to claim 22, wherein the film bag is embodied so that it can hold several sets of the rinsing water.

25. (Rejected) The dishwasher according to claim 22, wherein the dishwasher has a lye pump for pumping away the rinsing water from the dishwasher and a circulating pump for acting upon spray arms and the film bag can be filled with the rinsing water via a first rinsing water pipe from the lye pump.

26. (Rejected) The dishwasher according to claim 25, wherein a water deflector valve is provided which either opens the first rinsing water pipe when a shut-off valve from the lye pump to the film bag is opened or a second rinsing water pipe from the lye pump to a waste water pipe which is closed by means of a shut-off valve.

27. (Rejected) The dishwasher according to claim 25, wherein the rinsing water is passed from the film bag via a third rinsing water pipe for re-introduction of the rinsing water into the rinsing water cycle of the dishwasher, which leads from the film bag into a pump sump in a lower area of the washing container.

28. (Rejected) The dishwasher according to claim 25, wherein at least one of the first rinsing water pipe, a second rinsing water pipe, and a third rinsing water pipe can each be closed by means of a shut-off valve.

29. (Rejected) The dishwasher according claim 22, wherein the dishwasher has a lye pump for pumping away the rinsing water from the dishwasher and a circulating pump for acting upon spray arms and a filter bag can be filled with filtered rinsing water by means of a filter system in the pump sump and by means of a first rinsing water pipe from the circulating pump.

30. (Rejected) The dishwasher according to claim 29, wherein the first rinsing water pipe can be closed by a shut-off valve and a water deflector valve is provided which either releases one, both or none of the spray arms for acting upon with water.

31. (Rejected) The dishwasher according to claim 29, wherein the rinsing water from the film bag for re-introduction of rinsing water can be passed via the first rinsing water pipe when a shut-off valve is opened via the switched-off circulating pump into a pump sump.

32. (Rejected) The dishwasher according to claim 22, wherein operation of a lye pump and/or a circulating pump and actuation of shut-off valves is controlled by means of the program controller.

33. (Rejected) The dishwasher according to claim 22, wherein the film bag is arranged between an outer wall of the dishwasher and a side wall of the washing container of the dishwasher.

34. (Rejected) The dishwasher according to claim 22, wherein the film bag is arranged between a top wall of the dishwasher and a top wall of the washing container.

35. (Rejected) The dishwasher according to claim 22, wherein the film bag has at least one opening for introducing or removing rinsing water which opens into a first rinsing water pipe.

36. (Rejected) The dishwasher according to claim 25, wherein a flexible film bag and/or rinsing water pipes are coated on the water-guiding side at least in part with an anti-bacterial agent.

37. (Rejected) A dishwasher which is suitable for carrying out a washing program comprising at least one washing process using rinsing water, comprising a program controller, a washing container for receiving items to be cleaned and a system for circulating the rinsing water and a storage reservoir including a film bag for the rinsing water for storage and re-use at a later time of at least a part of the rinsing water present in the dishwasher, wherein the dishwasher has a lye pump for pumping away the rinsing water from the dishwasher and a circulating pump for acting upon the spray arms, characterised in that the storage reservoir can be filled with filtered rinsing water from the circulating pump.

38. (Rejected) A method for operating a dishwasher, especially comprising a device for storing rinsing water, wherein rinsing water present in the dishwasher at the end of or during a washing process is removed at least partly from the rinsing water circuit of the dishwasher and introduced into a flexible film bag, which is matched in its size to the liquid volume and before or at the beginning of a following rinsing process is removed at least partly from the flexible film bag and fed back to the rinsing water cycle of the dishwasher.

39. (Rejected) The method for operating a dishwasher according to claim 38, wherein the rinsing water present in the dishwasher at the end of or during a clear rinse partial program step of a washing program is removed at least partly from the rinsing water circuit of the dishwasher and introduced into the flexible film bag, which is matched in its size to the liquid volume and before or at the beginning of a prewash partial program step of a following washing program is removed at least partly from the flexible film bag and fed back to the rinsing water cycle of the dishwasher.

40. (Rejected) The method according to claim 38, wherein the rinsing water is fed back into the rinsing water cycle of the dishwasher before or at the beginning of the intermediate rinse partial program step.

41. (Rejected) The method according to claim 38, wherein the rinsing water present in the dishwasher is removed at least partly from a pump sump by means of the circulating pump via the filter system of the dishwasher provided there and filtered in the film bag.

42. (Rejected) A method for operating a dishwasher, comprising a device for storing rinsing water wherein the rinsing water present in the dishwasher at an end of or during a washing process is at least partly removed from a rinsing water cycle of the dishwasher and introduced into a storage reservoir including a film bag and before or at a beginning of a following rinsing process, is removed from the storage reservoir at least in part and is fed back to the

rinsing water cycle of the dishwasher, characterised in that the storage reservoir is filled with filtered rinsing water from a circulating pump.

EVIDENCE APPENDIX

None

RELATED APPEALS APPENDIX

None